

Disciplinary and Other FINRA Actions

Firm Expelled

North American Clearing, Inc. (CRD #39118, Longwood, Florida) submitted an Offer of Settlement in which the firm was expelled from FINRA membership. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it prepared and maintained inaccurate customer reserve formula computations and failed to make required deposits to its Special Reserve Account as required by the Securities Exchange Act, and failed to notify FINRA of its failure to make the deposits. The findings stated that the firm prepared and maintained an inaccurate net capital computation, trial balance and general ledger, and filed a materially inaccurate Financial and Operations Combined Uniform Single (FOCUS) report in which it overstated its net capital. The findings also stated that the firm failed to conduct an accurate box count, in that there were certificates in the box for positions that were not on the firm's stock record, and the amount of shares in the box did not match the firm's stock record. The findings also included that the firm failed to maintain an accurate securities position record, and did not take steps to obtain physical possession or control of securities failed-to-receive by initiating a buy-in procedure or otherwise in automated customer account transfers (ACATs) failures and customer-related fails. FINRA found that the firm failed to liquidate, or timely liquidate, unpaid-for customer securities positions in cash accounts as required by Regulation T, and permitted customers to purchase securities in accounts that were frozen pursuant to Regulation T without having cash on deposit for the purchases, and failed to liquidate customer positions in a timely manner in customer margin accounts that fell below FINRA's maintenance margin requirements. In addition, FINRA determined that the firm permitted an individual to act as its operations manager and to perform functions requiring registration as a Financial and Operations Principal (FINOP) when she was not so registered, and also employed a chief compliance officer who was not registered with the firm as a general securities principal or registered in any capacity with the firm.

Moreover, FINRA determined that the firm had not recently conducted an independent test of its anti-money laundering (AML) compliance program, failed to provide prompt notification to FINRA of the change of its AML compliance officer, failed to conduct ongoing AML training for appropriate

Reported for March 2009

FINRA has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

personnel, and its AML compliance program was inadequate in that it failed to establish policies and procedures that could reasonably be expected to detect and cause the reporting of suspicious transactions. Furthermore, FINRA found that the firm failed to maintain all internal electronic correspondence on non-erasable, non-rewriteable media, and its supervisory system was deficient in that registered persons could delete emails at will, and its written procedures were deficient because they lacked details or explanation.

In addition, the firm failed to maintain a continuing and current firm element continuing education program, and failed to establish and maintain a reasonable supervisory system for financial and credit risk management relating to its correspondent business. The findings stated that the firm failed to reasonably supervise its operations system conversion and its operations activities to detect and/or prevent violations including, but not limited to, inaccurate box counts, position records, buy-in procedures, Regulation T and NASD Rule 2520, maintenance of electronic correspondence and customer account transfers. The findings also stated that the firm engaged in the practice of improperly liquidating customer money market fund positions and failing to sweep customer free credit balances into customer-designated money market funds or a bank deposit account to create cash flows to meet its daily settlement obligations. The findings also included that the firm failed to maintain and provide account documentation to FINRA for accounts liquidated to meet its daily settlement requirements, and failed to comply with FINRA's Uniform Practice Code in that it validated account transactions and transfers late. FINRA found that the firm failed to report to FINRA, for itself or for any of its correspondent firms, daily INSITE information regarding the number and type of transactions conducted each day, the dollar value of the transactions, the net liquidating equity in proprietary trading accounts, the dollar amount of unsecured customer debits, information about margin debits, and calls in customer accounts and short interest information. (FINRA Case #E072005017201)

Firm Fined, Individual Sanctioned

Hedge Fund Capital Partners, LLC (CRD #113326, New York, New York) and **Howard Gordon Jahre (CRD #2238671, Registered Principal, New York, New York)** submitted Offers of Settlement in which the firm was censured and fined \$10,000, and Jahre was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for 10 business days. Without admitting or denying the allegations, the firm and Jahre consented to the described sanctions and to the entry of findings that the firm, acting through Jahre, filed a misleading and inaccurate Uniform Termination Notice for Securities Industry Registration (Form U5) in connection with a registered representative's termination.

Jahre's suspension was in effect from March 2, 2009, through March 13, 2009. (FINRA Case #2007008358101)

Firms Fined

BNY Mellon Capital Markets, LLC (CRD #17454, New York, New York) fka BNY Capital Markets, Inc. (CRD #18303, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$90,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its Equity Arbitrage Group (EAG) participated in partial tender offers, tendering shares in excess of its net long position, as defined in Securities and Exchange Commission (SEC) Rule 14e-4, at the time of its tender and/or at the time when it was obligated to deliver the shares for any of the partial tender offer transactions. The findings stated that the firm failed to establish, maintain and enforce a reasonable supervisory system designed to achieve compliance with SEC Rule 14e-4, and did not provide timely guidance to the EAG concerning the potential applicability of the rule to the proprietary corporate action arbitrage strategies. **(FINRA Case #2005000662001)**

CIBC World Markets Corp. (CRD #630, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to fully and promptly execute customer market orders. The findings stated that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. **(FINRA Case #2007010808501)**

Citadel Derivatives Group LLC (CRD #116797, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously or partially execute customer limit orders in NASDAQ securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order. The findings stated that the firm transmitted inaccurate data to the Order Audit Trail System (OATS), in that it submitted limit orders with a limit order display indicator of "Y" (Yes), indicating that it had received instructions from the customers that a non-block limit order should not be displayed, even though no such instructions had been received. **(FINRA Case #2006004936201)**

Citigroup Global Markets Inc. (CRD #7059, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$101,000, required to pay \$19,192.04, plus interest, in restitution to investors, and to revise its written supervisory procedures regarding trade reporting by third parties on the firm's behalf. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with customers, the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings stated that the

firm failed to report to the Trade Reporting Facility (TRF) the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting by third parties on the firm's behalf. The findings also included that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, and the firm failed to submit required information to OATS with respect to orders. **(FINRA Case #2005003240801)**

C.L. King & Associates, Inc. (CRD #6183, Albany, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,000 and required to revise its written supervisory procedures regarding order handling, OATS, best execution, anti-intimidation/coordination, trade reporting, sale transactions, trading and other rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report accurate trading information through the submission of electronic blue sheets in response to FINRA requests for the information. The findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings also stated that when the firm acted as principal for its own account or as "riskless" principal, it incorrectly provided written notification disclosing to its customers that the firm had received a "commission" for executing the transactions, instead of disclosing its remuneration to be a "commission equivalent" or other suitable description. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing order handling, OATS, best execution, anti-intimidation/coordination, trade reporting, sale transactions, trading and other rules. FINRA found that the firm failed to provide sufficient documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning supervisory systems, procedures and qualifications, order handling, best execution, anti-intimidation/coordination, trading reporting, sale transactions, soft dollar accounts and trading and OATS. **(FINRA Case #2005003078302)**

Comerica Securities, Inc. (CRD #17079, Detroit, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$750,000 and, pursuant to an agreement with FINRA, the firm or an affiliate will purchase at par auction rate securities (ARS) subject to auctions that have not been successful as of September 16, 2008, and are not subject to current calls or redemptions (Eligible ARS) from all investors who purchased eligible ARS between May 31, 2006, and February 28, 2008 (Relevant Class). The firm or an affiliate shall commence the buyback of all Eligible ARS no later than 30 days following the date this AWC is accepted and be completed no later than 60 days thereafter. Six months from the date on which this AWC is accepted, the firm shall make its best efforts to provide liquidity to all other investors not in the Relevant Class but who purchased Eligible ARS from the firm. No later than the completion of the buyback, any individual investor in the Relevant Class that the firm can reasonably identify who sold Eligible ARS below par between February 28, 2008, and September 16, 2008, will be paid the difference between par and the price at which

the investor sold the Eligible ARS. The firm agrees to arbitrate claims for consequential damages filed by investors in the Relevant Class relating to Eligible ARS through a Special Arbitration Program (SAP), and shall provide FINRA with a report no later than 30 days following completion of the buyback concerning compliance with the settlement.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it used advertising and marketing materials with customers and prospective customers that were not fair and balanced, and did not provide a sound basis for evaluating the facts in regard to ARS purchases. The findings stated that the materials the firm used failed to adequately disclose the risks of investing in ARS, including the risk that ARS auctions could fail, investments in ARS could become illiquid, and customers might be unable to obtain access to funds invested in ARS for substantial time periods. The findings also stated that the firm's materials made inappropriate comparisons between ARS and other materially different investments. The findings also included that the firm failed to establish and maintain procedures reasonably designed to ensure that it marketed and sold ARS in compliance with federal securities laws and applicable FINRA and MSRB rules. FINRA found that the firm failed to provide adequate training to its registered representatives regarding ARS and the differences between ARS and other investments. FINRA also found that the firm failed to establish and maintain procedures reasonably designed to ensure that marketing and sales materials regarding ARS complied with the appropriate disclosure standards described in NASD Rules 2210 and 2211, and MSRB Rule G-21. **(FINRA Case #2008013055501)**

Harris Investor Services, Inc. (CRD #137115, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$150,000 and required to submit to a buyback offer to purchase at par ARS subject to auctions that have not been successful as of October 2, 2008, and are not subject to current calls or redemptions (Eligible ARS) from all investors who purchased eligible ARS between May 31, 2006, and February 28, 2008 (Relevant Class). No later than 30 days following the date that FINRA accepts this AWC, the firm shall commence the buyback of all Eligible ARS by written offer to the Relevant Class and be completed no later than 60 days after the date of the written offer letter. No later than six months from the date that FINRA accepts this AWC, the firm shall make its best efforts to provide liquidity to all other investors not in the Relevant Class but who purchased Eligible ARS from the firm. The firm shall reasonably identify investors who sold Eligible ARS below par between February 28, 2008, and October 2, 2008, and pay them the difference between par and the price at which they sold the ARS. The firm shall arbitrate claims for consequential damages filed by investors in the Relevant Class relating to Eligible ARS through SAPs, and provide FINRA with a report no later than 30 days following the completion of the buyback concerning compliance with the settlement.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it used a presentation with customers and prospective customers that was not fair and balanced, and did not provide a sound basis for evaluating the facts in regards to purchase of ARS. The findings stated that the firm orally described ARS as an alternative to traditional money market instruments,

referring to ARS as liquid investments, compared them advantageously to money market securities but did not adequately disclose to its customers the risks of ARS, including the risk that the ARS auctions could fail, instruments in ARS could become illiquid, and customers might be unable to obtain access to funds invested in ARS for substantial time periods. The findings also stated that the firm failed to establish and maintain procedures reasonably designed to ensure that it marketed and sold ARS in compliance with federal securities laws and applicable FINRA and MSRB rules. FINRA found that the firm failed to provide adequate training to its registered representatives regarding the features and characteristics of ARS and the differences between ARS and other investments. FINRA also found that the firm failed to establish and maintain procedures reasonably designed to ensure that the written materials it used in connection with the marketing and sale of ARS complied with the appropriate disclosure standards in NASD Rule 2210 and MSRB Rule G-21. **(FINRA Case #2008014620701)**

Howe Barnes Hoefler & Arnett, Inc. (CRD #2240, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures regarding the Trade Reporting and Compliance Engine (TRACE) reporting requirements; supervisory system, procedures and qualifications; order handling; best execution; trade reporting; trading and other rules; and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, failed to report the correct time of trade execution for the same transactions, and failed to include its markup/markdown in the final price of principal transactions reported to TRACE. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE reporting requirements. The findings also stated that the firm incorrectly marked sales orders as short and failed to mark other sales orders as short. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules addressing supervisory system, procedures and qualifications; order handling; best execution; trade reporting; sales transactions; trading and other rules; and OATS. FINRA also found that the firm failed to provide documentary evidence that it performed supervisory reviews set forth in its written supervisory procedures concerning supervisory system, procedures and qualifications; order handling; best execution; trade reporting; other trading rules; and OATS. **(FINRA Case #2005003398101)**

Hudson Securities, Inc. (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report last sale reports of transactions in Over-the-Counter (OTC) equity securities to the OTC Reporting Facility. The findings stated that the firm failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the NASD/NASDAQ Trade Reporting Facility. **(FINRA Case #2006006160401)**

Hudson Securities, Inc. (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its AML procedures were not tailored to reflect its business model, but instead used procedures designed for retail firms although it was not a retail brokerage firm. The findings stated that the section identifying “red flags” of suspicious activity copied examples in NASD *Notice to Members 02-21* and were not modified to reflect issues that might arise in its wholesale trading business. The findings also stated that the firm’s supervisory procedures and compliance manual were not cross-referenced to the AML procedures, and failed to give employees guidance on what action to take in an AML context if suspicious activity was detected. The findings also included that the firm’s failure to customize its AML procedures to its business left employees to devise their own red flags to address the firm’s market-making activities and to determine how to apply AML procedures. **(FINRA Case #2007008732901)**

The Jeffrey Matthews Financial Group, L.L.C. (CRD #41282, Millburn, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide written notification disclosing to its customers the correct lowest effected yield-to-call in municipal securities transactions. **(FINRA Case #2007010007601)**

Legent Clearing LLC (CRD #117176, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$350,000, and required to adopt and implement policies and procedures reasonably designed to ensure compliance with Parts 220.8(a) and 220.8(b) of Regulation T, and to have an officer of the firm certify to FINRA, in writing within 60 days, that the firm has adopted and implemented such policies and procedures. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to develop and implement a written AML program reasonably designed to achieve and monitor its compliance with Bank Secrecy Act requirements. The findings stated that the firm’s written AML program did not adequately consider the money laundering risks its introducing firms posed; some of which were conducting high risk AML activities. The findings also stated that the firm’s AML training program was deficient, and that the firm failed to provide an adequate AML training program for new and existing employees. The findings also included that the firm failed to file, and to timely file, Suspicious Activity Reports (SARs), and failed to document any internal discussions it might have had, or the reason for any decision that it might have made, not to file an SAR. FINRA found that the firm effected improper trades by permitting customers to sell securities in cash accounts before making full cash payment, which was in violation of Regulation T, and failed to properly restrict accounts from trading subsequent to this activity. FINRA also found that the firm failed to ensure that, for each transaction in a cash account, full cash payment was made within two days of the settlement of each purchase, regardless of whether or when the security was sold, and the firm’s written supervisory systems and procedures did not adequately address the Regulation T provisions. FINRA also determined that the firm failed to make accurate reserve computations. **(FINRA Case #2007007133001)**

optionsXpress, Inc. (CRD #103849, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000 and required to revise its written supervisory procedures regarding supervisory systems, procedures and qualifications; recordkeeping; SEC Rule 606; best execution; trade reporting; OATS clock synchronization; use of multiple market participant identifiers; and SEC Rule 203(b)(3)(iii). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Route Reports to OATS where the firm was named the “Sent to Firm” that the OATS system was unable to link to the corresponding new order report the firm transmitted, due to inaccurate, incomplete or improperly formatted data. The findings stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning OATS, Regulation SHO, and SEC Rules 200 and 203(b)(1). The findings also stated that the firm failed to transmit required information to OATS, and submitted inaccurate information to OATS relating to orders. The findings also included that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing supervisory systems, procedures and qualifications; recordkeeping; SEC Rule 606; best execution; trade reporting; OATS clock synchronization; use of multiple market participant identifiers; and SEC Rule 203(b)(3)(iii). **(FINRA Case #2006005525301)**

RBS Greenwich Capital (CRD #11707, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$16,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, showing a pattern or practice of late reporting without exceptional circumstances. The findings stated that the firm failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE, and failed to show the correct execution time on brokerage order memoranda. **(FINRA Case #2007008764401)**

Shinko Securities (U.S.A.) Inc. (CRD #121142, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$13,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to OATS for more than a year. **(FINRA Case #2007009931301)**

Sloan Securities Corp. (CRD #17930, Fort Lee, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its written supervisory procedures regarding the requirements of SEC Rule 203(b)(1) and NASD Rule 6130. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed customer sell orders and failed to properly mark the orders as short; failed to report to the NASDAQ Market Center (NMC) the correct symbol indicating whether transactions were a buy, sell, sell short, sell short exempt or cross for transactions in reportable securities; and failed to report to the NMC the correct symbol indicating whether it

executed transactions in reportable securities in a principal or agency capacity. The findings stated that the firm failed to show the time of entry and/or the time of execution on brokerage order memoranda. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning order marking requirements in SEC Rule 200(g) and for compliance with NASD Rule 6130. The findings also included that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning the requirements of SEC Rule 203(b)(1) and NASD Rule 6130. **(FINRA Case #2006005702801)**

Zecco Trading, Inc. (CRD #135398, Pasadena, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$18,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit numerous ROEs because it mistakenly believed that it was exempt from reporting orders to OATS. **(FINRA Case #2007008926801)**

Individuals Barred or Suspended

Ivan Armas (CRD #4993347, Registered Representative, Houston, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Armas converted \$19,721.34, which he had received from insurance policyholders for payment of their insurance premiums, for his own use and benefit. The findings stated that Armas failed to appear for a FINRA on-the-record interview. **(FINRA Case #2007010747201)**

Timothy Tilton Ayre (CRD #2091556, Registered Principal, Agawam, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for one month. Without admitting or denying the findings, Ayre consented to the described sanctions and to the entry of findings that he failed to take appropriate action to supervise a firm registered representative reasonably designed to prevent him from permitting an unregistered individual from conducting a securities business with firm customers. The findings stated that Ayre ignored "red flags" indicating possible misconduct, failed to conduct any meaningful review of the registered representative's activities, and never conducted an internal inspection of his office. The findings also stated that Ayre, acting through his member firm, failed to establish, maintain and enforce a supervisory system and written procedures to supervise the activities of each registered person that were reasonably designed to achieve compliance with the applicable rules and regulations in the following areas: discretionary accounts, branch operation supervision, heightened supervision, form filings, business continuity planning, net capital requirements, Regulation S-P, transaction reporting and variable product suitability.

The suspension was in effect from February 2, 2009, through March 1, 2009. **(FINRA Case #2007007205501)**

Robert Anthony Bellia Jr. (CRD #2387955, Registered Principal, Wantagh, New York) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for 10 business days, and suspended from association with any FINRA member in any principal or supervisory capacity for 90 days. Without admitting or denying the allegations, Bellia consented to the described sanctions and to the entry of findings that he failed to follow-up on “red flags” indicating possible misconduct by a registered representative. The findings stated that Bellia failed to investigate why many of the representative’s accounts had “sell-outs,” and why certain of the representative’s new customer accounts failed to pay for securities purchases that had appreciated in value. The findings also stated that Bellia failed to adequately enforce his member firm’s heightened supervisory measures against the representative.

The suspension in any capacity was in effect from February 2, 2009, through February 13, 2009, and the suspension in any principal or supervisory capacity is in effect from February 2, 2009, through May 2, 2009. **(FINRA Case #2005001502703)**

Paul Joseph Benz (CRD #1548330, Registered Representative, Chester, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity. Without admitting or denying the findings, Benz consented to the described sanction and to the entry of findings that he manipulated the thinly traded common stock of an oil and gas exploration company by making trades in a customer’s account and making a market in the company’s common stock. The findings stated that Benz opened an account at his member firm for a corporate customer, and that Benz’ close relative, who was the controlling manager of a hedge fund with a significant position in the company, controlled the account. The findings included that Benz effected trades in the company’s stock in the account to create activity and raise the price of the stock for the purpose of inducing others to purchase it. FINRA found that Benz traded at the end of the month, which inflated the month-end value of the hedge fund, and in turn increased its monthly management fees, which benefited Benz’ relative. FINRA also found that Benz earned about \$87,750 in trading commissions. In addition, FINRA determined that Benz failed to respond to FINRA requests for documents and information, and to appear for an on-the-record interview. **(FINRA Case #2006006518901)**

Howard Brett Berger (CRD #2284367, Registered Principal, Roslyn Heights, New York) was barred from association with any FINRA member in any capacity. The SEC sustained the sanction imposed by FINRA in the decision remanded by the U.S. Court of Appeals to the SEC for reconsideration of the sanction. The sanction was based on findings that Berger failed to respond to FINRA requests to appear for an on-the-record interview.

The U.S. Court of Appeals was petitioned for review, and the bar is in effect pending consideration of the petition. **(FINRA Case #C9B20040069)**

David Francis Brochu (CRD #1164857, Registered Principal, East Greenwich, Rhode Island) and Jill Schlesinger (CRD #2587365, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which Brochu was fined \$20,000 and suspended from association with any FINRA member in any capacity for 15 business days. Schlesinger was censured and fined \$10,000. Without admitting or denying the findings, Brochu and Schlesinger consented to the described sanctions and to the entry of findings that they sold Class B units pursuant to a private placement memorandum containing inaccurate financial projections. The findings stated that both Brochu and Schlesinger worked on the private placement memorandum, and that Brochu supervised registered representatives who worked on the memorandum's financial projections. The findings also stated that Brochu discovered inaccuracies in the financial projections contained in the memorandum and reported them to firm managers, but incorrectly determined that the inaccuracies were not material and did not disclose them to customers who had purchased the securities. The findings also included that Schlesinger accepted the determination that the inaccuracies were not material and should not be disclosed. FINRA found that Brochu and Schlesinger continued to use the inaccurate private placement memorandum to sell additional units. FINRA also found that a member firm, acting through Brochu, failed to establish, maintain and enforce a reasonably designed supervisory system and written procedures regarding its registered representatives' private securities transactions.

Brochu's suspension was in effect from February 17, 2009, through March 9, 2009. **(FINRA Case #2006005242501)**

Charles William Brown Jr. (CRD #1411976, Registered Representative, Brighton, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 45 days. Without admitting or denying the findings, Brown consented to the described sanctions and to the entry of findings that, on checks that his customers submitted to purchase mutual funds, he altered the dates without the customers' authorization or consent. He then submitted the checks to his member firm for processing.

The suspension is in effect from February 2, 2009, through March 18, 2009. **(FINRA Case #2007010422001)**

Isaac Brown Jr. (CRD #2837569, Registered Representative, Ormond Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Brown consented to the described sanction and to the entry of findings that, while associated with a member firm, an individual gave him a \$100,000 check to purchase an annuity, which he failed to purchase and instead misused the funds by depositing the check into a bank account that he controlled and purportedly invested the funds in a fraudulent loan investment where the funds were lost. The findings also stated that Brown failed to respond to FINRA requests for documents and information. **(FINRA Case #2007008423801)**

Maria Antonia Burgos (CRD #1046655, Registered Representative, Hillsboro Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Burgos' reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Burgos consented to the described sanctions and to the entry of findings that she falsified customers' signatures on documents to effect transactions the customers requested, although they did not expressly give her permission to sign their names. The findings stated that Burgos' member firm detected an instance where she falsified customer signatures and confronted her about it. The findings also stated that Burgos admitted to the falsification of these signatures only, but later admitted to the additional falsifications when the firm discovered them.

The suspension is in effect from February 2, 2009, through February 1, 2010. (FINRA Case #2007011240501)

Deborah Ann Cotton (CRD #1614217, Registered Principal, Metairie, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cotton consented to the described sanction and to the entry of findings that she failed to respond to a FINRA request for information and to appear for an on-the-record interview. (FINRA Case #2008012560601)

Clifford Dominick Devastey (CRD #4970055, Registered Representative, Cincinnati, Ohio) was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The sanctions were based on findings that Devastey completed documents for a customer to purchase a life insurance policy without the customer's knowledge or consent, back-dated the documents and forged the customer's signature on the documents. The findings stated that Devastey wrote a check from a closed checking account to pay the initial premium on the insurance policy, wrote the customer's name on the check and forged the customer's signature on it. The findings also stated that Devastey submitted, or allowed the submission of, the documents for processing, and Devastey admitted to the forgeries only after the check bounced and the customer was asked to make the initial payment.

The suspension is in effect from February 2, 2009, through February 1, 2011. (FINRA Case #2007008640401)

Thomas Joseph Downs (CRD #4297709, Registered Representative, Pleasantville, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Downs consented to the described sanction and to the entry of findings that he effected an unauthorized transaction in a customer's account without discretionary authorization over the account, and failed to respond to FINRA requests for information. (FINRA Case #2007011819401)

Keith Lowell Epstein (CRD #1422407, Registered Representative, Farmington Hills, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Epstein's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Epstein consented to the described sanctions and to the entry of findings that he received \$280,500 from customers in their nineties to hold for distribution to a relative upon their deaths. The findings stated that Epstein deposited the funds in an account for a business he operated and distributed the funds to individuals other than the customers. The findings also stated that Epstein knew that his member firm prohibited his acceptance, commingling and misuse of the customers' funds, and after the firm discovered his activities, he repaid the customers. The findings also included that Epstein failed to fully and timely respond to FINRA requests for information and documentation.

The suspension is in effect from January 20, 2009, through January 19, 2011. **(FINRA Case #2007008827601)**

Eric Erickson (CRD #726668, Registered Representative, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for 15 business days and required to offer to reimburse a customer for any surrender charges incurred from liquidating a variable annuity. Erickson shall provide proof of the offer and of payment to FINRA. Without admitting or denying the findings, Erickson consented to the described sanctions and to the entry of findings that he made a recommendation that a customer purchase a variable annuity and its rider that was unsuitable in light of the customer's age, financial situation and needs. The findings stated that the customer had immediate need for liquidity to meet expenses and also needed penalty-free access to funds in the event of an emergency.

The suspension was in effect from February 2, 2009, through February 23, 2009. **(FINRA Case #2007008819901)**

Rodney Scott Garretson (CRD #1995521, Registered Supervisor, Lake Orion, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member firm in any capacity for six months. The fine must be paid either immediately upon Garretson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Garretson consented to the described sanctions and to the entry of findings that he falsely represented to New York Stock Exchange (NYSE) Regulation examiners that his member firm did not employ any interns at the firm's branch office. The findings stated that Garretson denied to the regulators that the branch office he supervised employed non-registered cold callers who used telemarketing scripts. The findings also stated that Garretson instructed staff at the

branch office that, if asked, the branch office employees were to tell the regulators that there were no interns employed at the branch office. The findings included that Garretson purposefully failed to correct his misleading statements to the regulators.

The suspension is in effect from February 2, 2009, through August 3, 2009. (FINRA Case #2008012095301)

Eric Steven Goldberg (CRD #2431841, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Goldberg consented to the described sanction and to the entry of findings that he falsified information on wire authorization forms for customers who had ordered wire transfers, and submitted the falsified forms to his member firm. The findings stated that Goldberg fabricated a notary's signature and commission stamp impression on a customer's wire authorization form. The findings also stated that Goldberg failed to appear for a FINRA on-the-record interview. (FINRA Case #2008011736101)

Ronald Goldfine (CRD #2853925, Registered Representative, Brooklyn, New York) was fined \$29,000, including \$9,000 in disgorgement of commissions, and suspended from association with any FINRA member in any capacity for one year. The sanctions were based on findings that Goldfine recommended and effected unsuitable and excessive securities transactions in a customer's account utilizing margin without having reasonable grounds for believing that the transactions were suitable for the customer on the basis of the customer's financial situation and needs.

The suspension is in effect from February 2, 2009, through February 1, 2010. (FINRA Case #2006004418901)

Jorge Gomez Jr. (CRD #5080731, Registered Representative, Los Fresnos, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Gomez failed to respond to FINRA requests for information. The findings stated that Gomez engaged in outside business activities, for compensation, without providing prompt written notice to his member firm. (FINRA Case #2007010995401)

Liam Patrick Heinz (CRD #4470644, Registered Representative, Brentwood, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Heinz' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Heinz consented to the described sanctions and to the entry of findings that he entered an order to buy shares of a security in a customer's account, without the customer's knowledge and consent.

The suspension was in effect from February 17, 2009, through March 2, 2009. (FINRA Case #2007010181801)

Paul J. Hytken (CRD #4502699, Registered Representative, Pewaukee, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Hytken's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hytken consented to the described sanctions and to the entry of findings that he willfully failed to amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) with material information.

The suspension was in effect from February 2, 2009, through March 2, 2009. **(FINRA Case #2007007727801)**

Michael Lee Ihrig (CRD #5379974, Associated Person, De Soto, Iowa) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member firm in any capacity for six months. The fine must be paid either immediately upon Ihrig's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ihrig consented to the described sanctions and to the entry of findings that he willfully failed to disclose materials facts on his Form U4.

The suspension is in effect from January 20, 2009, through July 20, 2009. **(FINRA Case #2007010236301)**

Armando Jaramillo Jr. (CRD #4427980, Registered Representative, Elmhurst, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Jaramillo acted unethically and failed to deal fairly with a customer by inducing him to provide funds for an investment by falsely describing the investment as "risk free" and guaranteed a 35% return within 10 weeks; after 10 weeks, falsely told the customer he had sent payment; sent several checks backed by insufficient funds; and failed to repay the customer's funds until two years later. The findings stated that Jaramillo failed to respond to FINRA requests for information. **(FINRA Case #2007008085801)**

Brian James Kelly (CRD #2270427, Registered Representative, Severna Park, Maryland) was fined \$108,291.41 and suspended from association with any FINRA member in any capacity for two years for churning and suitability; fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 business days for exercising discretion without written authority. The suspensions were to be served concurrently. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Kelly exercised effective control over a customer's account, and engaged in excessive trading in the account. The findings stated that Kelly recommended a trading strategy that offered risks incompatible with the customer's investment objectives and financial needs. The findings also stated that Kelly exercised discretion in the customer's account

without his member firm's prior written authorization and misled his firm that he exercised discretion by falsely answering compliance-related questionnaires. The suspension is in effect from February 2, 2009, through February 1, 2011. **(FINRA Case #E9A2004048801)**

Donald Walter Kiley (CRD #2630201, Registered Representative, De Pere, Wisconsin) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, Kiley consented to the described sanctions and to the entry of findings that he received \$20,382.07 in compensation for participating in the sale of life settlements totaling \$160,601.24, and failed to give prior written notice to, or receive prior written approval from, his member firm. The findings stated that the compliance manual for Kiley's member firm explicitly prohibited the sale of viatical and life settlements.

The suspension is in effect from February 2, 2009, through May 1, 2009. **(FINRA Case #2005003312401)**

Robert Elwood Kreis (CRD #4654104, Associated Person, San Marcos, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kreis consented to the described sanction and to the entry of findings that he failed to respond fully to FINRA requests for information and documents. **(FINRA Case #2007010176601)**

L. Vincent Markovich (CRD #3162494, Registered Representative, Danville, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Markovich's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Markovich consented to the described sanctions and to the entry of findings that he borrowed \$14,480 from a firm customer, contrary to his member firm's compliance manual prohibiting borrowing money or securities from a customer.

The suspension was in effect from February 2, 2009, through February 13, 2009. **(FINRA Case #2007010816401)**

Scott Lee Mathis (CRD #1362203, Registered Principal, New York, New York) was fined \$10,000 and suspended for three months from association with any FINRA member in any capacity for willfully failing to amend his Form U4 to disclose federal tax liens against him and for willfully failing to disclose tax liens on two initial Form U4s. Mathis also was fined \$2,500 and suspended for 10 business days from association with any FINRA member in any capacity for failing to timely amend his Form U4 to disclose a customer complaint and a customer-initiated civil action. The NAC imposed the sanctions following appeal of an OHO decision and ordered the suspensions to run concurrently.

Mathis has appealed this decision to the SEC, and the sanctions are not in effect pending consideration of the appeal. (FINRA Case #C1020040052)

Richard Allen McGarrah (CRD #1892189, Registered Supervisor, Tyrone, Georgia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that McGarrah instructed his assistant to withdraw \$60,000 from the joint account of his customers, who were relatives, and make the check payable to them, forged their signatures on the issued check and deposited it into his personal account, without their knowledge or consent. The findings stated that McGarrah subsequently wrote a letter on firm letterhead, informing the customers that the withdrawal was an error and was being rectified, and forged the signature of a supervisor who was no longer employed at the firm to conceal his conversion of customer funds. The findings also stated that McGarrah failed to appear for a FINRA on-the-record interview. (FINRA Case #2007009387601)

Steven George Meyers (CRD #1544523, Registered Representative, Rockford, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Meyers consented to the described sanctions and to the entry of findings that he exercised discretion in a customer's account without the customer's prior written authorization. The findings stated that Meyers' member firm had not accepted the customer's accounts as discretionary (in writing or otherwise) prior to Meyers exercising discretionary power.

The suspension was in effect from February 17, 2009, through March 2, 2009. (FINRA Case #2007009005301)

Max A. Mora (CRD #5466177, Associated Person, Medford, Oregon) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Mora's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Mora consented to the described sanctions and to the entry of findings that he willfully misrepresented material facts on his Form U4.

The suspension is in effect from January 20, 2009, through May 19, 2009. (FINRA Case #2008012208901)

Cynthia Nawita Pete (CRD #5416260, Associated Person, Sandston, Virginia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Pete failed to respond to FINRA requests for information and willfully failed to disclose material information on her Form U4. (FINRA Case #2007011080601)

Liane Shigeko Rawlings (CRD # 2581237, Registered Representative, Honolulu, Hawaii) and **Gregory Rawlings (CRD # 1323337, Registered Representative, Honolulu, Hawaii)** submitted a Letter of Acceptance, Waiver, and Consent in which they were ordered to pay \$9,350, plus interest, jointly and severally, in restitution to a customer. They were each suspended from association with any FINRA member in any capacity for 30 days.

Liane Rawlings was fined \$5,000 and Gregory Rawlings was fined \$7,155, of which \$2,155 represents the disgorgement of commissions received. G. Rawlings' fine must be paid either immediately upon his reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier.

Without admitting or denying the findings, the Rawlings consented to the described sanctions and the entry of findings that they recommended that a customer surrender a variable annuity and purchase Class A fund shares when they did not have a reasonable basis for believing that the liquidation of the annuity and the purchase of the fund shares were suitable transactions for the customer. The findings stated that the Rawlings did not advise the customer of other sub-accounts of the annuity to which her funds could have been allocated without reduction in principal, and that the liquidation resulted in the loss of the death benefit feature of the annuity.

The suspensions were in effect from February 2, 2009, through March 3, 2009.
(FINRA Case #2007008349301)

Ronald Harris Sirota (CRD #872341, Registered Principal, Jamesville, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Sirota consented to the described sanctions and to the entry of findings that he attempted to settle a customer complaint by sending the customer a check and a letter for her to sign retracting the complaint, without providing prior notice to his member firm or obtaining the firm's consent.

The suspension was in effect from February 2, 2009, through February 13, 2009.
(FINRA Case #2007009050501)

Kimberly Ann Stain (CRD #4200604, Registered Representative, Baltimore, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Stain's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Stain consented to the described sanctions and to the entry of findings that, in response to customers' requests to withdraw funds from bank-issued instruments each owned, she accessed the computer system of a bank affiliated with her member firm, and, in violation of the bank's internal policies and without its authorization, caused the customers' instruments to be liquidated in a manner that enabled them to avoid fees and/or charges that they otherwise would have incurred. The findings stated that this unauthorized conduct caused the bank to lose revenue to which it was entitled.

The suspension is in effect from February 17, 2009, through February 16, 2011.
(FINRA Case #2008012206001)

Kenneth Lenell Street (CRD #2009576, Registered Representative, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Street's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Street consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for commissions, without providing prompt written notice to his member firm. The findings stated that when Street was asked on a required firm compliance questionnaire whether he engaged in outside business activities and accepted commissions from sources other than his member firm, he incorrectly answered "no."

The suspension is in effect from February 17, 2009, through August 16, 2009. **(FINRA Case #2007010105201)**

Gerald Lee Thomason (CRD #1715980, Registered Representative, Chewelah, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Thomason consented to the described sanction and to the entry of findings that, while associated with his member firm, he entered false information in the firm's records by providing incorrect answers on firm forms, thereby concealing his violations of its policies. The findings stated that Thomason violated the firm's policies when customers, who were not related to him, purchased fixed annuity policies through him and made him their beneficiary without the firm's prior written permission. The findings also stated that Thomason received a customer's mail at his home or at an address he controlled contrary to his firm's written policies and without written authorization. **(FINRA Case #2007009936601)**

Julia Hamilton Thompson (CRD #4733273, Registered Representative, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which she was censured, fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Thompson's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Thompson consented to the described sanctions and to the entry of findings that she signed a customer's signature to a Change of Beneficiary form for an Individual Retirement Account (IRA) without the customer's permission and submitted it to her firm.

The suspension is in effect from February 2, 2009, through May 1, 2009. **(FINRA Case #2007010502001)**

Vincent Michael Uberti (CRD #2618595, Registered Principal, Santa Ana, California) was barred from association with any FINRA member firm in any capacity. The SEC imposed the sanction following appeal of the NAC's remand decision. The sanction was based on findings that Uberti issued research reports that fraudulently failed to disclose material information and contained misleading, exaggerated and false statements. The findings also stated that Uberti failed to disclose that his firm had received compensation for preparing and disseminating the research reports. **(FINRA Case # CAF20020048)**

Lawrence Louis Herman Ventresca (CRD #2410686, Registered Representative, Norridge, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Ventresca's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ventresca consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to provide prompt written notice to his member firm on annual outside business activity forms or in any other written form.

The suspension is in effect from January 20, 2009, through April 19, 2009. **(FINRA Case #2007008655401)**

Dasherra Janell Walton (CRD #4677665, Registered Representative, Newark, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Walton consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for an on-the-record interview. **(FINRA Case #2007008699102)**

William Henry Weisbrod (CRD #812664, Registered Representative, Montville, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$33,500, of which \$23,500 represents disgorgement of commissions, and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Weisbrod consented to the described sanctions and to the entry of findings that he recommended and effected purchases of Class B mutual fund shares in a customer's accounts without having reasonable grounds for believing that the transactions were suitable, given the total dollar amount of shares purchased and the customer's financial situation and needs. The findings stated that by investing solely in the Class B shares, the customer was exposed to unnecessary fees, paying nearly twice as much in annual expenses, while Weisbrod significantly increased his commissions. The findings also stated that Weisbrod effected these transactions, which required his member firm's pre-approval, in a manner designed to evade firm policy and circumvent its supervisory controls.

The suspension is in effect from February 17, 2009, through April 16, 2009. **(FINRA Case #2005003485101)**

John Carl Wils (CRD #2786354, Registered Representative, East Moline, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Wils received \$13,129 from customers that was intended for investments and insurance coverage payments and deposited the funds into his personal bank account, converting the funds for his own use and benefit, without the customers' knowledge and consent. The findings stated that Wils failed to respond to FINRA requests for information and documents. **(FINRA Case #2006005281301)**

Anton Yereshkin (CRD #5452893, Associated Person, Groton, New York) was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine is due and payable if and when Yereshkin reassociates with a member firm following his suspension. The sanctions were based on findings that Yereshkin willfully failed to disclose material facts on his Form U4.

The suspension is in effect from January 5, 2009, through January 4, 2010. **(FINRA Case #2007011504801)**

Individual Fined

Michael Francis Smith (CRD #1397389, Registered Principal, Aberdeen, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Smith consented to the described sanctions and to the entry of findings that he failed to enforce his member firm's supervisory procedures concerning the review of outgoing written correspondence of registered representatives to ensure that communications with the public were not false or misleading. The findings stated that Smith failed to ensure that his firm's compliance department pre-approved correspondence sent to more than 10 individuals. **(FINRA Case #2006005977002)**

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC as of February 28, 2009. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future *FINRA Notices*.

John Brian Busacca III (CRD #2302780, Registered Principal, Orlando, Florida) was fined \$30,000, and suspended from association with any FINRA member in any principal capacity for six months. The sanctions were based on findings that Busacca, acting on behalf of his member firm, failed to reasonably supervise the firm's operations system conversion and its operations activities to detect and/or prevent violations. The findings stated that Busacca allowed his member firm to employ an unregistered and unqualified person as its chief compliance officer.

This decision has been appealed to the National Adjudicatory Council and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #E072005017201)**

Kent Michael Houston (CRD #1514831, Registered Representative, Carlsbad, California) was fined \$100,000, suspended from association with any FINRA member in any capacity for one year for failure to disclose outside business activities, and barred from association with any FINRA member in any capacity for failure to appear for an on-the-record interview. The sanctions were based on findings that Houston failed to provide prompt written notice of outside business activities to his member firm, and misrepresented on a firm compliance form that he had not conducted any outside business activities. The findings stated that Houston failed to respond to FINRA requests to appear for an on-the-record interview.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2006005318801)**

Mission Securities Corporation (CRD #41779, San Diego, California) and Craig Michael Biddick (CRD #2382884, Registered Principal, Rancho Santa Fe, California). The firm was expelled from FINRA membership and Biddick was barred from association with any FINRA member in any capacity. The sanctions were based on findings that Biddick, on the firm's behalf, caused the transfer of customer holdings of a stock from the customers' accounts to a firm proprietary account without the customers' authorization for these transfers, and subsequently sold a portion of the shares, totaling \$38,946.06, and retained the rest. The findings stated that Biddick transferred the proceeds of the stock sales from the proprietary account to a firm bank account and used a portion of the funds for the firm's general business purposes, and did not pay any of the sales proceeds to the customers. The hearing panel found that this conduct constituted conversion and misappropriation of customer funds, in violation of NASD Rules 2330 and 2110. The findings also stated that the firm, acting through Biddick, engaged in a securities business when it was below its required minimum net capital, in violation of Exchange Act Rule 15c3-1 and NASD Rule 2110 as to the firm and NASD Rule 2110 as to Biddick. In light of the expulsion and bar, the hearing panel declined to determine whether the firm or Biddick engaged in alleged violations of NASD Rule 3010(b)(2), the Taping Rule.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2006003738501)**

Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

Patrick Anthony Potopowicz (CRD #1217511, Registered Representative, Princeton, New Jersey) was named as a respondent in a FINRA complaint alleging that he recommended and effected excessive transactions in a public customer's account without having reasonable grounds for believing that such transactions were suitable for his customer in view of the size and frequency of the transactions, the transaction costs incurred, the concentration in precious metal stocks, and in light of his customer's financial situation, investment objectives and needs. The complaint alleges these transactions resulted in significant commission income for Potopowicz and losses for his customer. The complaint also alleges that Potopowicz entered unauthorized transactions in the customer's account without the customer's discretionary authorization or his member firm's acceptance of the account as discretionary. **(FINRA Case #2006004960901)**

Kapil Shashikant Shah (CRD #4409290, Registered Principal, Jersey City, New Jersey) was named as a respondent in a FINRA complaint alleging that he misrepresented or omitted material facts in his conversations with customers. The complaint alleges that Shah promised unrealistic returns to his customers on their investments and made an improper price prediction concerning a stock to a customer. **(FINRA Case #2006003684703)**

Firm Expelled for Failing to Pay Fines and/or Costs Pursuant to Rule 8320

Carlton Capital Inc.
New York, New York
(January 8, 2009)

Firms Cancelled for Failure to Pay Outstanding Fees Pursuant to Rule 9553

(The cancellation date is listed after the entry.)

Ashton Capital Management, Inc.
San Diego, California
(January 5, 2009)

Axiom Management Partners LLC
New York, New York
(January 5, 2009)

Omni Financial Group, L.L.C.
Houston, Texas
(January 5, 2009)

Individual Suspended for Failure to Pay Arbitration Fees Pursuant to Rule 9553

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Andrew James Aragona
Deerfield Beach, Florida
(January 28, 2009 – January 30, 2009)

Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to Rule 8320

(If the revocation has been rescinded, the date follows the revocation date.)

William Anthony Kaso
Pembroke Pines, Florida
(September 26, 2008 – January 22, 2009)

Nicholas Anthony Natale
Delray Beach, Florida
(January 22, 2009)

Individuals Barred Pursuant to Rule 9552(h)

(If the bar has been vacated, the date follows the bar date.)

James Allen Boston
El Cajon, California
(January 2, 2009)

Stanley Virgil Brookins
Reynoldsburg, Ohio
(January 27, 2009)

Frederick Cahoon Bryant
Bay Village, Ohio
(January 27, 2009)

Bobby John Daugherty
Swannanoa, North Carolina
(January 26, 2009)

Craig M. Kamijima
Boca Raton, Florida
(January 28, 2009)

Louis Molinet
Braunefels, Texas
(January 20, 2009)

John William Yeager
New Lenox, Illinois
(January 12, 2009)

Individuals Suspended Pursuant to Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

James Kirk Baldi
Charlottesville, Virginia
(January 2, 2009)

Jack David Dunigan Jr.
Anaheim, California
(January 9, 2009)

Daniel A. Estrada
Casa Grande, Arizona
(January 15, 2009)

John Andrew Gilliam
St. Louis, Missouri
(January 2, 2009)

Donald William Grigley Jr.
Hamden, Connecticut
(January 29, 2009)

Hong Kyu Park
Fountain Valley, California
(January 26, 2009)

Jonathan Robert Schukal
Southport, Connecticut
(January 12, 2009)

Individuals Suspended for Failure to Comply with an Arbitration Award or Settlement Agreement Pursuant to Rule Series 9554

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Carl Jurbert Anderson III
Erie, Pennsylvania
(January 16, 2009)

Lewis Joseph Franklin III
Smithtown, New York
(January 8, 2009)

Charles Ray Hill
Lake City, Florida
(January 16, 2009)

Louis John Liberatore Sr.
Blue Point, New York
(January 8, 2009)

James Kenneth Maurice
Cedar Rapids, Iowa
(January 16, 2009)

Dennis Robert Metter
Chicago, Illinois
(January 8, 2009 – January 15, 2009)

Doria Sabia-Florence
Statesboro, Georgia
(January 8, 2009)

Andrea M. Sawchuk
Pottstown, Pennsylvania
(January 8, 2009 – January 14, 2009)

Brian Jonathon Schuster
Syracuse, Nebraska
(January 8, 2009)

Carlos Akira Shibata
Miami, Florida
(January 8, 2009)

Samuel Morton Wasserman
Sarasota, Florida
(February 20, 2007 – January 12, 2009)

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FINRA Fines Leonard & Co. for Sale of Unregistered Securities, Bars Broker for Unregistered Penny Stock Sales, Other Violations

FINRA Issues Regulatory Notice Regarding Sales of Unregistered Securities

The Financial Industry Regulatory Authority (FINRA) has fined Leonard & Co. of Troy, MI, \$225,000 for numerous violations, including the illegal sale of more than two million shares of penny stock on its customers' behalf. FINRA also required the firm to retain an independent consultant to review its supervisory systems and procedures.

In addition, FINRA has barred Robert J. Cole, formerly a registered representative with Leonard & Co., for his role in the illegal sales.

In a related action, FINRA issued Regulatory Notice 09-05, Unregistered Resales of Restricted Securities, to remind firms and brokers of their obligations to determine whether securities are eligible for public sale before participating in what may be illegal distributions. It also discusses the importance of recognizing "red flags" of possible illegal, unregistered distributions and reiterates firms' obligations to conduct searching inquiries in certain circumstances to avoid participating in illegal distributions.

"This action, and the accompanying Regulatory Notice, demonstrate FINRA's continuing commitment to ensuring that brokerage firms live up to their responsibilities as gatekeepers to the securities markets," said Susan L. Merrill, Executive Vice President and Chief of Enforcement. "FINRA will aggressively pursue firms and individuals who ignore those responsibilities and participate in illegal sales of unregistered securities."

FINRA found that Leonard & Co. and Cole participated in an illegal distribution of a penny stock, Shallbetter Industries, by selling over 2.2 million unregistered shares of the stock into the public markets from three related customer accounts. Cole, who handled the accounts, was aware that trading in the accounts was directed by a "control person" of Shallbetter. A control person is generally an individual who owns 10 percent or more of the stock of a company and can influence its policies and decision-making.

Most of the shares were deposited into the accounts in certificate form with restrictive legends attached to the certificates. Although the sales were made on behalf of a control person of Shallbetter, Cole arranged to have the restrictive legends removed from the stock certificates so the unregistered shares could be sold into the public markets.

Shallbetter is a thinly-traded penny stock. During the time of the sales activity, the company claimed in public filings with the Securities and Exchange Commission (SEC) that it owned mineral exploration licenses and interests in Outer Mongolia. The sales from the Leonard & Co. accounts occurred between August and November 2006 and generated over \$3.1 million in proceeds for the accounts.

FINRA found that the sales coincided with a campaign by third parties to promote Shallbetter through widespread spam email and the issuance of numerous press releases. The campaign resulted in significant increases in the price and trading volume of Shallbetter stock. During five days of the period, sales of Shallbetter from the accounts at Leonard & Co. accounted for more than 20 percent of the stock's total trading volume.

FINRA found that Cole had been told about the promotional campaign in advance by Shallbetter insiders. While in possession of this information, Cole purchased 15,000 Shallbetter shares for his own account and solicited purchases of 10,000 Shallbetter shares for two customers. He also acted to support the price of Shallbetter stock in advance of the promotional campaign by placing trades and by soliciting purchases of Shallbetter stock.

FINRA found that by selling more than two million shares of unregistered Shallbetter stock into the public markets for control persons of Shallbetter, Cole and Leonard & Co. violated the registration provisions of federal securities laws. FINRA also found that Cole and Leonard & Co. failed to conduct an adequate review of Shallbetter before recommending its purchase to customers of the firm. FINRA further found that Cole participated in a scheme to manipulate the price of Shallbetter stock, purchased and recommended purchases of Shallbetter stock while in possession of material nonpublic information, and sent numerous emails to customers that inappropriately touted various stocks, including Shallbetter.

In addition, FINRA found that Leonard & Co. was aware of numerous red flags indicating that an illegal distribution might be underway, but failed to conduct a reasonable inquiry into them. In fact, the firm failed to conduct an adequate inquiry even after FINRA's Market Regulation Department inquired about the unusually high volume of trading in Shallbetter stock. FINRA found that the facts available to Leonard & Co. had it conducted a reasonable inquiry included:

That the accountholder/control person who had deposited over two million Shallbetter shares into accounts at Leonard & Co. had the same address as Shallbetter, was closely associated with Shallbetter's management and controlled over 10 percent of Shallbetter's outstanding stock.

That the accountholder/control person used shares in the account, or proceeds from shares in the account, to pay legal and auditing expenses for Shallbetter.

That a former president and director of Shallbetter—who at the time was living with the accountholder/control person—directed the trading and transfers in the account.

FINRA found that Leonard & Co. failed to maintain a supervisory system reasonably designed to comply with the registration requirements, but instead relied on its clearing firm to provide such a review. FINRA, the SEC and the courts have repeatedly held that firms cannot rely on outside counsel, clearing firms, transfer agents,

issuers or issuer's counsel to discharge their obligations to undertake an inquiry into circumstances such as those present in this case. FINRA also found that Leonard & Co. failed to reasonably supervise Cole and ignored numerous red flags that he was engaging in activity that violated securities laws and regulations.

Other violations that FINRA found include the firm's failure to implement an adequate anti-money laundering (AML) program and failure to timely file suspicious activity reports in connection with certain activities, including liquidation of a large position of a thinly traded unregistered penny stock at the direction of a corporate insider; the wiring of proceeds to third parties, some of whom were overseas; and the accountholder's refusal to provide requested information about an entity to which he proposed to transfer funds.

Leonard & Co. also failed to retain email for 23 accounts, including the firm's executive management, registered operations staff and non-registered administrative staff, and allowed its Chief Operating Officer to act as a principal before he had requalified to act in that capacity as required by a prior settlement with FINRA.

In settling these matters, neither Leonard & Co. nor Cole admitted or denied the charges, but consented to the entry of FINRA's findings.